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Viewing cable 09PANAMA756, MOUNTING OPPOSITION TO MARTINELLI'S LIKELY SUPREME

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- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
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Reference ID	Created	Released	Classification	Origin
09PANAMA756	2009-10-07 17:31	2011-08-30 01:44	CONFIDENTIAL	Embassy Panama

Appears in these articles:

<http://especial.prensa.com/wikileaks/category/cables/>

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C O N F I D E N T I A L PANAMA 000756

SIPDIS

E.O. 12958: DECL: 10/02/2019

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SUBJECT: MOUNTING OPPOSITION TO MARTINELLI'S LIKELY SUPREME COURT NOMINEES

REF: A. PANAMA 692

[B. PANAMA 701](#)

[C. PANAMA 657](#)

Classified By: Ambassador Barbara J. Stephenson for reasons 1.4 (b) and (d)

Summary

[11.](#) (C) Rumors that President Martinelli intends to nominate Electoral Tribunal Magistrate Gerardo Solis and former drug prosecutor Jose Almengor to the Supreme Court this fall have been poorly received by Panamanian opinion makers. Several leading newspaper editors told the Ambassador and DCM that President Martinelli's honeymoon with the local press would end if he nominated the two to the Court. Objections to the two revolve around Solis' history of corruption, and Almengor's possible cover-up of Martinelli's alleged contact during the presidential campaign with David Murcia, convicted in Colombia of fraud and money laundering. End Summary.

Gloves Coming Off?

[12.](#) (C) The Panamanian Supreme Court consists of nine magistrates, sitting in three chambers. The magistrates serve for staggered ten year terms, with two magistrates being replaced every two years. The president nominates his candidates, and the National Assembly confirms the appointments with little debate. At lunch with the Ambassador, DCM, and PAO September 28, Geraldo Berroa, editor of the newspaper La Estrella, said that Martinelli would "lose all credibility" if he appointed Gerardo Solis and Jose Almengor to the two vacancies in the Supreme Court this fall, adding that the decision would "stain his administration." Solis and Almengor are widely rumored to be Martinelli's choices, despite their checkered pasts. Berroa, together with Guido Rodriguez of Panama America and Guillermo Antonio Adams of the popular debate program "Debate Libre", argued that given Martinelli's campaign promises to clean up Panamanian politics and his rhetoric on combating special interests, his supporters (including their newspapers and television stations) not only expect him to name honest judges instead of corrupt ones, they also expect an open nomination process with the participation of civil society. Any process that seemed to mirror past practices, with the President pre-selecting his candidates, and then carrying out a charade nomination process, would damage his reformist reputation. All three journalists said they would have to re-examine their editorial lines towards the Martinelli administration if the nomination process were not transparent. They agreed that if Solis and Almengor ended up on the Supreme Court, they would be forced to directly oppose the government.

Don't Make Us Do It!

[13.](#) (C) Supreme Court justice Adan Arjona told polofffs September 16 that Panama's newspaper of record, La Prensa, had been reluctant up to now to oppose Martinelli because it was very early in his presidency. (Note: Arjona is very close to La Prensa Director Fernando Berguido. End Note) He said if Martinelli appointed Solis it would force La Prensa into a difficult situation because it will "remove Martinelli's mask too soon." Arjona said Berguido understood perfectly well that Martinelli was not really a reformer, but that Berguido was afraid that La Prensa could threaten the governability of the country if it attacked him too quickly. Since so much of Martinelli's power is based on his strong public support as a reformer, a sustained campaign of

opposition by La Prensa would cause his power to dissipate as it became clear he was "more of the same." The PRD would then become stronger and the country might become ungovernable. (Note: La Prensa was founded in 1980 in opposition to the military dictatorship from which the PRD was formed. It

maintains a strong anti-militarist, and anti-PRD editorial line. End note.) Arjona insisted that Berguido just wanted Martinelli to act responsibly so he could hold off on attacking him, and keep the PRD in check. However, according to Arjona, Berguido has said that La Prensa will not hold back from attacking Martinelli at the expense of its reputation.

14. (C) Berguido himself told the Ambassador at lunch on August 25 that he had heard that Solis and Almengor would be the candidates, and while he was not pleased, he did not seem outraged either. He said that there was little that could be done to prevent Martinelli from appointing magistrates who were loyal to him, without significant regard for their professional qualifications and moral authority. He made it clear at the time that he would not lead a crusade against the nominations.

Those Were the Days

15. (C) Arjona said that Gerardo Solis was implicated in several acts of corruption in the past, including being the "bag man" for a \$21 million bribe the Colon Free Zone users allegedly paid then president Ernesto Perez Balladares in 1996 to reverse his decision to raise the 8% tax on CFZ users to 15%. In the end, the tax rate was lowered to 0%. At the time, Solis was the legal counsel for the CFZ. Since then, Solis has served as "Electoral Prosecutor" and presently serves as Magistrate of the Electoral Tribunal. Closely identified with Perez Balladares, of the opposition Democratic Revolutionary Party (PRD), Solis has a declared wealth of \$11 million, with no known legitimate source. Several judicial contacts have expressed confusion as to why Martinelli would insist on nominating a figure associated with PRD corruption. Arjona told poloffs on August 26 that Solis had built up a relationship with Martinelli during the campaign, as Solis leaked him information from the Electoral Tribunal.

Oh, That David Murcia!

16. (C) Jose Almengor is the Secretary for Security in the Ministry of the Presidency, and former lead drug prosecutor. He quit his job earlier this year, while investigating the actions in Panama of David Murcia, who has been convicted in Colombia of fraud and money laundering. Murcia caused a major political scandal during the Panamanian presidential campaign by accusing the PRD presidential candidate Balbina Herrera and the PRD candidate for mayor of Panama City, Roberto Velasquez, of accepting \$3 million each in campaign contributions from him. The story badly damaged their campaigns, and both lost. "La Estrella" featured on a recent front page accusations that Almengor discovered information linking Martinelli to Murcia during his investigations, and suppressed it. According to these accusations, Almengor will be placed on the Supreme Court as a quid pro quo (septel).

Comment

17. (C) Martinelli has received remarkably uncritical support from all the major media outlets since his election, despite a series of appointments and actions that might well have sparked outrage under the previous government. Unfortunately, the media, including La Prensa, seems to hope that the Embassy will prevent disaster by warning Martinelli about the appointments, rather than using their power to

examine the candidates before hand, and organize resistance to the nominations.

18. (C) Post is very concerned about the judicial nominations. The two departing magistrates, Esmeralda de Troitino and Arjona, are two of the most highly respected magistrates on the Court. While it is unclear exactly what

role Almengor might play on the new Court, putting Solis on the Court could consolidate the block of corrupt magistrates, turning the Court into a focus of corruption and weakening the public's faith in democratic institutions. This will perpetuate, or even worsen, the bad image of the judicial system, which is, according to global competitiveness rankings, the major drag on Panama's aspiration to become a first-world country.

STEPHENSON